

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEDTECH PRODUCTS, INC.,

Plaintiff,

v.

07 Civ. 3302 (KMK) (LMS)

RANIR, LLC, et al.,

Defendants.

MEDTECH PRODUCTS, INC.,

Plaintiff,

v.

DENTEK ORAL CARE, INC.,

Defendant.

MEDTECH PRODUCTS, INC.,

Plaintiff,

v.

POWER PRODUCTS, INC.,

Defendant.

**DEFENDANT DENTEK ORAL CARE, INC.'S RESPONSE TO
PLAINTIFF'S MOTION FOR LEAVE TO FILE ITS SECOND AMENDED
COMPLAINT, MOTION TO FILE EXHIBITS UNDER SEAL,
AND MOTION TO AMEND THE SCHEDULING ORDER, AND
CROSS-MOTION FOR AN EXTENSION OF TIME TO
RESPOND TO SECOND AMENDED COMPLAINT**

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Defendant DenTek Oral Care, Inc. (“DenTek”) respectfully submits this response to the following motions brought by Plaintiff Medtech Products, Inc. (“Medtech”): (a) Motion for Leave to File its Second Amended Complaint; (b) Motion to File Exhibits Under Seal; and (c) Motion to Amend the Scheduling Order. DenTek also respectfully cross-moves for an extension of time to respond to Medtech’s Second Amended Complaint.

I. MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT AND CROSS-MOTION FOR EXTENSION OF TIME TO RESPOND

Following the discussions on this subject with the Court at the *Markman* hearing on September 5, 2007, DenTek does not oppose the filing of Medtech’s Second Amended Complaint.

DenTek further reserves all of its rights to respond to the Second Amended Complaint and has requested from Medtech an extension of time to respond until the responses from the newly added defendants are due (under either operation of the Federal Rules of Civil Procedure or by agreement between the parties). DenTek had hoped to concurrently submit for the Court’s approval a stipulation to that effect between the parties with the instant response; however, Medtech has declined to extend DenTek the requested accommodation regarding the due date for its response to the amended pleading. Accordingly, especially given the length of the new pleading, DenTek respectfully cross-moves for an extension of time to answer, move, or otherwise respond to Medtech’s Second Amended Complaint up to and until the first response of the newly added defendants – Kelly M. Kaplan, Ray Duane, and C.D.S. Associates, Inc. – to the amended pleading.

II. MOTION TO FILE EXHIBITS UNDER SEAL

DenTek consents to the filing under seal of the exhibits identified by Medtech in its motion.

III. MOTION TO AMEND THE SCHEDULING ORDER

As discussed before the Court at the *Markman* hearing, DenTek agrees that, once the Second Amended Complaint has been served upon the new parties and those parties have appeared in the action, a new scheduling order should be entered in this case with the participation of every party to the action, now that the unmet deadlines previously set have been vacated.

Dated: September 12, 2007
New York, New York

PROSKAUER ROSE LLP

By: /s/ James H. Shalek

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